

**DEQ – Air Quality Division**  
**SUMMARY OF NEGOTIATED RULEMAKING**  
**REGIONAL HAZE**  
**Docket 58-0101-0601**  
**May 9, 2006**

**PARTICIPANTS**

Adams, Carol - P4  
Anderson, Mary - DEQ-Modeling  
Bauer, Martin - DEQ-AQ Administrator  
Bush, Sheila - J.R. Simplot  
Condie, Cheri - Jerome, Idaho Citizen  
Dalton, Michael - Amalgamated Sugar  
Delorey, Dean - Amalgamated Sugar  
Dzomba, Thomas - Forest Service-Montana (participated by telephone)  
Edwards, Mike - DEQ-SIP Coordinator  
Kronberg, Lisa - Attorney General's Office  
LaFrenz, Estee - Kleinfelder  
McCullough, Mick - P4  
McIntyre, Krista - Stoel Rives  
Miller, Ken - Northwest Energy Coalition  
Moore, Tom - WRAP (participated by telephone for part of the meeting)  
Rush, Dick - IACI  
Schaefer, Suzanne - SBS Associates - P4  
Simon, Mike - DEQ-Stationary Sources  
Stafford, Tim - INL  
Walker, Doug - INL  
Wilkinson, Bob - Husch & Eppenger - P4  
Wilkosz, Robert - DEQ-Mobile/Area Source  
Willey, Bob - J.R. Simplot  
Wittmeyer, Jane - Intermountain Forest Assn. (present for part of the meeting)  
Wolleson, Ward - J.R. Simplot  
Heitman, Phyllis - DEQ-AQ Management Assistant

**NOTE:** All attachments referenced in this summary are available on the DEQ web site ([www.deq.idaho.gov/rules/air/58\\_0101\\_0601\\_negotiated.cfm](http://www.deq.idaho.gov/rules/air/58_0101_0601_negotiated.cfm)) or by calling the DEQ Air Quality Office at 208-373-0256.

Mike Edwards called the meeting to order at 8:35 a.m. Participants were introduced.

**STATE ROLE IN WRAP AND WHY IDAHO PARTICIPATES**

Martin Bauer presented a brief overview of the Western Regional Air Partnership (WRAP). The WRAP was established approximately ten years ago by the Western Governor's Association for the Colorado Plateau and the regional haze issues that existed in the Grand Canyon. The WRAP has undertaken the role of amassing regional haze information and data for the thirteen western states. Previously, each of the states

invested their own resources to gather the same data, so WRAP offered to hire the contractors to compile the data if the states would supply their individual information. In addition to conserving resources, this also allows for more consistency and unity. There are many work-specific forums, i.e., fugitive dust (Mike Edwards is co-chair), mobile source, emission inventory (Chris Ramsdell is a member), stationary sources, fire (Dan Redline is a member), modeling (Mary Anderson is a member). The forums report to a Technical Oversight Committee governed by the Initiatives Committee policy group. Idaho has good representation on these various forums and Mr. Bauer sits on the Initiatives Committee. They all work to ensure Idaho's interests are addressed.

Mr. Bauer cautioned the group that a lot of work has already been done through the WRAP and it would not be good use of this rulemaking committee's time to recreate the work WRAP has done. WRAP meetings are open to the public and Mr. Bauer strongly recommended members join WRAP or attend forums meetings to better understand how data is developed and compiled. The tribes, states, federal land managers, EPA, industries, and energy groups are all active members of WRAP and its forums.

The next meeting is scheduled for May 23-24 in Sacramento, California to discuss parsing out the natural portions of fire emissions, dust and other carbons. Mr. Edwards said attendance at this session would be beneficial for anyone wanting to learn more about emission inventories and their development. The Implementation Work Group will also meet during that same timeframe to discuss development of SIP's in order to obtain consistency among states.

Bob Wilkinson asked if WRAP is coordinating the consultation process between states in terms of setting targets, such as background targets for Yellowstone and Teton parks. Mr. Edwards said the Implementation Work Group will look at the source attribution, to determine the extent to which one state impacts another and decide how to establish a threshold for when Idaho would need to participate in the consultation process.

Krista McIntyre asked about the relationship between the work WRAP is doing compared to what Idaho might need to do; if WRAP works on big issues, is there a possibility you end up with a one-size fits all approach. She wondered if Idaho has taken opportunities to customize WRAP's work to fit Idaho's source base and atmospheric conditions. Mr. Bauer explained Idaho has staff on the various forums to protect Idaho's interest. The emission inventory information WRAP is using was submitted by Idaho.

Dean Delorey asked about the SIP development schedule. Mr. Edwards said the base modeling will be done by December, 2006. Idaho will be looking at its own control strategies, emission reductions to 2018 will be estimated, numbers will be given to the WRAP modeling center and estimates will be included in the regional model. Control strategies are due to WRAP in October, 2006. WRAP will notify Idaho what its reasonable progress goals are.

Mr. Delorey asked about the schedule for other components of the SIP. By early spring, 2007, the reasonable progress goals should be estimated. DEQ already has a template SIP and is currently identifying the basic content. There will be a draft SIP during 2007 to send to public comment. Mr. Edwards developed a complete time schedule to post on the DEQ webpage. Ms. McIntyre asked if control strategies will be sent to public comment as they are developed. Mr. Edwards said DEQ is required to hold a public comment period, probably in mid-2007.

Originally he had hoped to combine the rulemaking and the SIP stakeholder process; however, as time goes on DEQ sees those two processes should probably be separated. Mr. Edwards suggested DEQ proceed on a two-tiered schedule: (1) proceed with the rulemaking process to give the agency the authority to develop the control measures and (2) hold monthly stakeholder meetings to work through the SIP process and help the community understand and become comfortable with the information. All data currently resides on the WRAP website ([www.wrapair.org](http://www.wrapair.org)) on the various forum pages. In June the Technical Support System web page will be online and will contain all the tools needed by states to prepare their SIP's (emission inventory, modeling, and source apportionment tag species). The goal is for states to use the same template for all SIP's so that during the consultation process similar information can be found in similar locations. In July, 2006, the stakeholder group would begin discussing what additional control measures are needed. In 2007, DEQ would go through a second rulemaking to develop temporary rules if additional control measures are needed.

Ms. McIntyre suggested that DEQ develop a one-page list of important internal and WRAP-related deadlines. WRAP timelines would include dates when states' information is due and what types of information are due. She said she is also interested in knowing the components of the SIP, when will they be compiled, what opportunities are available for review, and the agreed upon timelines with WRAP. Mr. Edwards said he can pull this information from the larger scheduling chart he has already prepared. Ms. McIntyre said this information would give the stakeholders a better idea of when they will have an opportunity to review and comment.

Mr. Edwards asked if the group wants to begin a separate stakeholder process. Mr. Wilkinson said he thinks this would be helpful. Ms. Kronberg suggested having a WRAP staff member present to answer questions. Mr. Edwards suggested Tom Moore might be a good choice since he mainly deals with emission inventory and modeling. Lee Alter and Pat Cummins are two other valuable WRAP technical staff. He added it would be helpful if the stakeholder group could develop a list of questions for Mr. Moore ahead of time or at least provide more specific points for the list of questions that were previously submitted to DEQ.

Mr. Wilkinson asked about a statement Mr. Edwards made in regard to developing the SIP and that was that DEQ made sure it included required elements under Section 308 as well as Sections 302-307. For purposes of Reasonably Attributable Visibility Impairment (RAVI), the state has a federal FIP rule in place. He asked if Idaho anticipate asking for authorization for RAVI. Mr. Edwards said he plans to show under

Section 308 that the state is satisfying the requirement, and that the Section 308 approach goes beyond the former RAVI approach. RAVI focused on large sources and authorized Federal Land Managers (FLM's) to do certain things. Idaho would show it put certain reasonable controls in place and, therefore, have reached the Reasonable Attributable Visibility Impacts. Mr. Wilkinson stated there are fundamental differences between RAVI and regional haze in how BART is handled. Mr. Edwards said it will be important to ensure the new rules and the SIP satisfies some of the older portions of the RAVI rule. FLM's would be asked to certify our reasonable progress goals so that the state would not be jumping back and forth between the regional haze rules and the RAVI rules. Mr. Wilkinson added that the RAVI program would address a source that is very close to a Class I area if that source causes impairment, whereas the Regional Haze rules deal with broader regional impacts. Mr. Edwards said DEQ would want to write a rule and a regional haze SIP that satisfies the RAVI requirements to get the state out from under the federal FIP requirements. Mr. Wilkinson asked if DEQ has the authority under this rulemaking to include a RAVI rule since it is a different program from regional haze.

Ms. Anderson said RAVI is one way of protecting regional haze. Mr. Wilkinson stated that in 1980 when the RAVI rule was promulgated, EPA said they did not have the technical modeling tools and information to address the second half of visibility protection, which is regional haze. It was not until 1999 that the Regional Haze rules came on line.

Ms. McIntyre asked for more discussion at the next meeting about RAVI versus regional haze since it does impact certain comments that IACI made. Ms. Kronberg said the goal of the rule was to incorporate Section 308 and to incorporate Section 302 because both of those components may be required to ensure Idaho achieves the reasonable progress goals. Ms. McIntyre said this may not be appropriate unless the state has gone through a SIP approval process to engage the Section 302 portion. Mr. Edwards said Idaho is unique in that other states previously developed RAVI rules (Arizona, Oregon, New Mexico); now Idaho is in the awkward position of writing a Section 308 SIP that could potentially leave the facilities vulnerable to the federal FIP.

## **REVIEW OF DRAFT RULES**

Mr. Edwards began the review of the draft rules (Version 2) and comments from members.

### **P4 Comments on Draft Rule**

Mr. Wilkinson discussed the revised rule draft dated April 13, 2006 submitted by P4. P4's main issue is the definition of BART-eligible source and EPA's use in Appendix Y of the undefined term "emission unit." He explained how use of emission unit would apply to his client. If the rule group decides to adopt Section 2, Appendix Y in the rule, he suggested revising DEQ existing definition of emission unit.

There was considerable discussion about how incorporation of Appendix Y could affect P4 and potentially other sources. Ms. McIntyre pointed out that coming to consensus

on the intent of EPA's guidance is one reason industry does not think guidance should be incorporated into state law. It is too difficult for Idaho to enforce these provisions when they are a subject of debate. Ms. Kronberg added that in this particular situation what EPA put in Appendix Y is material that should have been placed in the federal rule.

Mr. Edwards stated that if Idaho adopts the suggested emission unit definition, it will depart from other states and could make consultation with those states more difficult. If Idaho does not adopt the Appendix Y into the rule, other states will have difficulty reviewing and understanding Idaho's BART process. In addition, EPA would prefer Idaho put permits into the SIP. If DEQ has a process that is repeatable, it will have more leverage to argue that permits do not belong in the SIP.

#### DEQ Draft Rule Revisions

Ms. Anderson briefly went through DEQ's Version 2 of the draft rules.

Mr. Wilkinson asked about Section 006.XX (Visibility Impairing Pollutant). His concern was with the inclusion of "ammonia and ammonia compounds, and VOC's" as visibility impairing pollutants. His understanding is that EPA has not made a final determination that ammonia and VOC's are impairing pollutants. He also stated that EPA says states can exercise their own judgment in deciding if those elements are a source of impairment in any given area. He asked if DEQ has made that determination.

Ms. Anderson said this rule section links to the BART rule section that states DEQ will only look at those compounds on a case-by-case basis if DEQ can show that are causing impairment. She said it would impact only very large sources. A member stated that there is not a model at this time that can make that determination. Sheila Bush stated that, for that reason, "ammonia and ammonia compounds, and VOC's" should be deleted from the definition. Ms. Anderson added that DEQ is receiving comments from EPA and others that the state should not ignore ammonia and VOC's. It was suggested this might be a SIP issue instead of a rule item, or the rule be written to state that ammonia and VOC's "may be" impairing pollutants.

Ms. Anderson stated she took Section xxx.03.e (BART Determination) and Section xxx.04 (BART Alternative) from the Colorado rule.

On the Smoke Management rule, Ms. McIntyre proposed that clarification is needed in Section 600 and how it relates to the Idaho-Montana smoke management program. Ms. Anderson reminded members that a work group is being planned to address smoke management issues.

Regarding the Construction Activities rule, modeling work still needs to be done to determine the exact kilometer distance. This rule will address construction activities as well as other fugitive sources like mining or agriculture. Modeling might be available in June or July to determine the distance number.

### IACI Draft Rule Comments

Dick Rush gave an overview of IACI's recent efforts to review the DEQ draft rules and develop comments. They have consulted with a regional IACI member who is a consultant to bring all members up to speed on some of the technical and legal issues. They put their ideas together in the form of a revised draft rule. IACI's goal was to align the DEQ rule with the federal rule. He said IACI members are concerned about guidance being used as rule but they are on board with as much flexibility as possible. They propose leaving Appendix Y as guidance and not incorporate it into rule. There was discussion about requirements for minor permits to construct and it is reflected in some of the suggested changes to ensure they track closely with the federal rules. Fugitive dust and establishment of a kilometer distance number is a concern of many IACI members. Reasonable and attributable requirements (RAVI requirements) were discussed at length. Many IACI members think it is important to separate the FIP from the SIP. IACI has concern about the large sources being targeted while smoke, fugitive dust and mobile sources continue to have a major impact on visibility. Mr. Rush stated that the member companies are taking this process very seriously.

### Rules Work Group

After considerable discussion, it was decided a small work group should meet to review all the drafts and comments and develop recommendations for the larger group to consider.

### MODELING PROTOCOL

Mary Anderson reported that by the week of May 15, the draft protocol should be sent to the FLMA's and EPA for initial comment. During the weeks of May 29 or June 5, Ms. Anderson expects the draft to be ready to distribute to the stakeholders in the three states. The meteorological data should be available the last week of June. DEQ will do the BART-subject modeling in early July and BART-determinations in July-September. Availability of engineering resources at DEQ to review the determination during the summer months may be questionable. Information regarding 24-hour maximum actual emission rates for the 2003-2005 timeframe will be available for facilities to review and verify by the end of May.

### WRAP REPRESENTATIVE TOM MOORE

Tom Moore, WRAP member, was present to answer questions.

Mr. Edwards said Idaho thinks it will be satisfying the RAVI portion of the rule as it develops its rules through the Section 308 approach. He wondered if Mr. Moore had any comment on other states that are doing that and are there other states who have not gone through the RAVI process and are trying to do that now.

Mr. Moore responded that the Section 309 SIP's turned in by New Mexico, Utah, Arizona, Wyoming, and Oregon in 2003 contained an agreement between the state and the FLM's that the regional emissions management program for SO<sub>2</sub> satisfied the RAVI requirement and there was no need to do source-specific BART analyses. That approach will be resubmitted by those five states for their next SIP. As a member of the

Grand Canyon Region, Idaho also had that option. The Section 308 option has been clarified by the EPA BART rule and essentially requires that if a state is going to do regional haze planning and are not able to opt into Section 309 it needs to determine what the BART emission reductions would be. You do not have to do BART but could have an equivalent program. Once the amount of BART emission reductions have been identified through an engineering analysis, Idaho could construct a program to either make those emission reductions on a source-by-source basis or develop a cap-and-trade program. There are several different versions of a trading program. This would cover the RAVI requirement. Ms. Kronberg asked if it is correct that, if Idaho put together a Section 308 SIP, it does not need to develop a RAVI SIP because there is already a FIP which would take over if the Section 308 is not adequate.

Mr. Moore answered he thinks this is essentially correct, but he is not certain if Section 302 has any provisions that specifically need to be dealt with.

FLM's worked closely with the states that prepared Section 309 SIP's. There is an MOU between the Section 309 states and the FLM's to use the SO<sub>2</sub> annex program in lieu of a source-specific BART analysis. The Stationary Source Forum was concerned that sources would have a double requirement by doing a trading program and then possibly being subject to the BART analysis. The MOU was designed to alleviate that concern. Ms. McIntyre asked if there is a similar MOU being developed for the Section 308 process. Will sources that do BART review and conclude retrofit is unreasonable or identifies controls that are reasonable to permit be protected when FLM's impose RAVI? Will FLM's accept the MOU as concluding the Section 302 authority? Mr. Moore said that because every state is required to complete the subject-to-BART findings and either develop a program that applies controls for those sources or develop an alternative program by the time the state submits its SIP in 2007, sources not included in the SIP are no longer eligible for BART. He believes if the state works through the subject-to-BART process, RAVI will be satisfied.

The longer range issue is that the regional haze rule is a sixty-year program that envisions a steady, continuous progress in reducing regional haze. Sources that were not found to be BART in the subject stage would still be vulnerable in the future.

Mr. Edwards said there had been a discussion about the timeframe for sending anticipated emission reductions from all control strategies to WRAP for modeling and when the results and the reasonable progress goals would be returned. Mr. Moore responded that, setting aside the group of sources that are subject to BART, WRAP will seek emission reduction information from the other sources of pollution (area, mobile, prescribed fire) in mid-August. This data would be included in a sensitivity analyses to look at the reductions across the region. These reductions would be applied to the 2018 target year. The results will probably be available in early October. That result would not commit the state to strategies or requirements.

Ms. McIntyre posed a question. If all of Idaho's stationary source emissions were at zero, analyzed on a regional basis, and the analysis showed there is no significant

improvement in visibility, would not the observation be that in a state like Idaho with no large power plants or large contributors, Idaho trying to do something that does not help the larger problem. Mr. Moore said WRAP plans to run a couple of source apportionments wherein WRAP looks at the base period (2000-2004) and at the base case for 2018 that includes growth, and additional mobile source control programs that will be coming online. Reductions from BART will not be included at this time because sources would not have had time to do all the necessary engineering analysis. The analysis does not zero out Idaho emissions, however, the apportionment identifies all the point source emissions and tracks where the emissions go and their impact. The apportionment will be done by mid-July. It will be a comprehensive series of results that show the impact of current case and the base case so you can see what the change in contribution is from these major source categories as well as where the impacts occur. Maybe most of the point sources in Idaho contribute very small amounts. The idea is to talk about what a reasonable threshold would be so that if state sources contribute less than, say, 5% at one of the parks, it does not make sense to require emission reductions for those sources.

Ms. McIntyre asked if some of WRAP's work will translate into actual SIP work. If Idaho's sources are less than 5% of the impairment source, how does that translate into what Idaho's SIP would need to do to meet obligations under Section 308 if regionally the conclusion is that there is not much that can be gained from Idaho. Mr. Moore responded that each state's plan will specify the emission reduction obligation. If Idaho's sources contribute a minor amount to Yellowstone, for instance, a consultation process with the other states could determine it is not reasonable to seek additional reductions from Idaho. The source apportionment analysis will help determine which sources or source types are the main contributors. It is possible that Idaho could write a SIP that offers the status quo and justifies no additional reduction is feasible.

On another topic, Ms. McIntyre asked Mr. Moore to comment on the background numbers. She asked if he is aware of any states that are developing their own background values and how are they going about that. He said this is an option for each state but he is not aware of any state undergoing that at this time. EPA published their default conditions for the sixty-year term; they are more of an approximation than an exact number. Fire incidents factor heavily into the background values. If any state does want to develop its own numbers there would need to be considerable interstate coordination.

## **SCHEDULE FOR FUTURE MEETINGS**

Negotiated rulemaking meetings were scheduled for

- **May 18, 2006**, 7:30 a.m. - 10:30 a.m.  
Agenda: Review and discuss all draft rules including comments/revisions received to date. Members suggested a small work group might be more efficient, however, everyone is welcome to attend. Revised rules will be presented to the entire rulemaking group on 5/31.
- **May 31, 2006**, 8:30 a.m. - noon  
Agenda: Review rule recommendations developed at 5/18 meeting. Continue RAVI discussion. Updates from May 22 Sacramento WRAP meeting.
- **June 20, 2006**, 8:30 a.m. - noon

All meetings will be held at the DEQ State Office Building in Boise.

Meeting adjourned at 12:00 p.m.